

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Tyrone Ransom,)	
)	
Plaintiff,)	Civil Action No. 6:12-3141-JFA-KFM
)	
vs.)	<u>REPORT OF MAGISTRATE JUDGE</u>
)	
Lt. Lawrence, et al.,)	
)	
Defendant.)	
)	

This matter is before the court on the plaintiff's motions for default judgment (doc. 30) and to strike the defendants' motion for summary judgment (doc. 31). The plaintiff, a state prisoner proceeding *pro se*, seeks relief pursuant to Title 42, United States Code, Section 1983. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Civil Rule 73.02(B)(2)(d) DSC, this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983, and submit findings and recommendations to the District Court.

By order of this court filed November 8, 2012, the defendants were apprised that the deadline for filing dispositive motions was 45 days after the answer was filed. The defendants filed their answer on December 18, 2012. Accordingly, the deadline for the defendants' dispositive motion was February 1, 2013. By ordered filed on February 5, 2013, this court noted that the defendants had not yet filed a dispositive motion. Accordingly, the court extended the deadline for the defendants' dispositive motion until February 15, 2013, and directed the Clerk of Court to place the case on the trial calendar if the defendants did not file a dispositive motion by that date. The defendants filed their motion for summary judgment on February 15, 2013 (see doc. 25).

The plaintiff requests that this court find the defendants in default pursuant to Federal Rule of Civil Procedure 55 for failing to comply with the above order. The plaintiff also requests that this court strike the defendants' motion for summary judgment as untimely pursuant to Rule 12(f). As set forth above, the defendants filed their motion for summary judgment within the time allowed by this court. Accordingly, the plaintiff's motions are meritless and should be denied. The plaintiff is hereby reminded that his response to the defendants' motion for summary judgment is due by March 25, 2013.

IT IS SO RECOMMENDED.

March 5, 2013
Greenville, South Carolina

s/ Kevin F. McDonald
United States Magistrate Judge

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
300 East Washington St, Room 239
Greenville, South Carolina 29601

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).